

FILED
JUN 29 2007
CLERK OF THE
INDIANA SUPREME COURT
COURT OF APPEALS
AND TAX COURT

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) **Case No. 29S00-0707-MS-264**
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ORDER APPROVING AMENDED LOCAL RULES

The judges of the Hamilton Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Ind. Administrative Rule 1(E) and an amended local rule for special judge selection in accordance with Ind. Trial Rule 79. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Hamilton Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR29-AR00-104, LR29-AR00-105, LR29-AR00-110, LR29-CR00-301, LR29-CR00-302, and LR29-PR00-702 comply with the requirements of Ind. Administrative Rule 1(E), and that proposed local rule amendment LR29-TR76-210 complies with Ind. Trial Rule 79, and, accordingly, should be approved effective thirty (30) days after the rules have been posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules LR29-AR00-104, LR29-AR00-105, LR29-AR00-110, LR29-CR00-301, LR29-CR00-302, LR29-PR00-702, and LR29-TR76-210 for Hamilton County Courts, set forth as an attachment to this Order, are approved effective thirty (30) days after the rules have been posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Judith S. Proffitt, Hamilton Circuit Court, One Hamilton Square, #337, Noblesville, 46060-2652; the Hon. Steven R. Nation, Hamilton Superior Court, One Hamilton Square, #345, Noblesville, 46060-2232;

the Hon. Daniel J. Pfleging, Hamilton Superior Court, One Hamilton Square, #384, Noblesville, 46060-2614; the Hon. William J. Hughes, Hamilton Superior Court, One Hamilton Square, #215, Noblesville, 46060-2614; the Hon. J. Richard Campbell, Hamilton Superior Court, One Hamilton Square, #292, Noblesville, 46060-2614; the Hon. Wayne A. Sturtevant, Hamilton Superior Court, One Hamilton Square, #297, Noblesville, 46060-2232; the Hon. Gail Bardach, Hamilton Superior Court, One Hamilton Square, Noblesville, 46060; and to the Clerk of the Hamilton Circuit Court.

The Clerk of the Hamilton Circuit Court is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 29th day of June, 2007.

FOR THE COURT

RT Shepard
Randall T. Shepard
Chief Justice of Indiana

LR29-AR00-104. PLAN FOR ALLOCATION OF JUDICIAL RESOURCES

104.10 The Circuit and Superior Courts of Hamilton County have previously adopted various rules and orders concerning the filing of certain types of matters in the Hamilton County Circuit and Superior Courts. Unless changed by addition, amendment and/or deletion, those rules and standing orders remain in effect. Concurrently In conjunction with the adoption of this Local Rule and plan, the following Hamilton County Criminal Random Filing Order (LR29-CR00-301) has been amended to reallocate the filing of class D felony cases Local Rules also affect the allocation of judicial resources: LR29-AR00-105. Protective Orders; LR29-AR00-110. Assignment of Infraction and Ordinance Violation Cases; LR29-TR76-210. Transfer of Small Claims, Infraction and Ordinance Violations Cases and Protective Orders in the Event of Disqualification; LR29-CR00-301. Criminal Random Filing; LR29-CR00-302. Clerk Procedures to Accomplish Criminal Random Filing; LR29-CR00-303. Filing Rule; LR29-CR00-304. Filing Felony Cases Arising From Juvenile Waiver Hearings; LR29-DN01-602. Rules for Trial De Novo Following Civil Judgments; LR29-DN02-603. Rules for Trial De Novo Following Judgments for Infractions or Ordinance Violations; LR29-PR00-702. Filing of Pleadings; and, LR29-JV00-801. Assignment of Juvenile Case Numbers.

104.20 All requests for a prosecutor subpoena shall be filed in Superior Court No. 4 and Superior Court No. 5 on an alternating basis.

104.30 As needed in order to meet the requirements of the Indiana Supreme Court Order for the Development of Local Caseload Plan adopted July 16, 1969, Circuit Court shall direct that cases with a JC case type are filed in courts other than the Circuit Court. The number of cases per year that Circuit Court will direct to other courts will not exceed 40% of the number of JC cases filed in Circuit Court during the 1998 calendar year. In designating the Court to receive the filing of said JC cases, Circuit Court shall give priority to courts whose utilization percentages (based upon the previous year's Weighted Caseload Measures) are less than the Hamilton County average and the highest priority shall be given to the Court with the lowest caseload utilization percentage. Circuit Court will direct to other courts only the number of JC cases necessary to bring all courts within the range established by the Indiana Supreme Court. Pursuant to I.C. 33-33-29-8, Superior Courts No. 4, 5, and 6 each have a standard small claims and misdemeanor division. Said courts shall provided for an evening session at least one day of each week.

104.40 The judges of the Courts of record of Hamilton County shall meet *en banc* in February of each year at least once annually for the purpose of reviewing the weighted caseload of each court, and at such other times as may be required either by the Courts themselves or to comply with new orders of the Indiana Supreme Court or to comply with the District Plan or any amendments to the District Plan.

104.50 The judge of the Circuit Court may with the consent of the judge of a receiving Superior Court, transfer any action either filed and/or docketed in the Circuit Court to the Superior Court to be redocketed and disposed of as if originally filed with the receiving Superior Court. The judge of a Superior Court may, with the consent of the judge of the receiving Circuit Court or other receiving Superior Court, transfer any action either filed and/or docketed in the Superior Court to the Circuit Court or the other Superior Court to be redocketed and disposed of as if originally filed with the receiving Court.

LR29-AR00-105. PROTECTIVE ORDERS UNDER I.C. 5-2-9-2.1

Repealed 7/1/02

105.10 PROTECTIVE ORDER FILING:

- a. All protective orders (PO) shall be filed in Superior Court No. 6.
- b. Once the PO has been acted upon, if there is a related dissolution action pending in any other Hamilton County Court, the PO will be transferred to said court and consolidated with said action for hearing purposes.
- c. For a change of judge pursuant to Trial Rule 76(B) or 79(C), see LR29-TR76-210.50.
- d. From time to time, the Courts may provide orders to assist the Clerk in implementing the Protective Orders Filing procedures.

LR29-AR00-110. ASSIGNMENT OF INFRACTION (IF) AND ORDINANCE VIOLATION (OV) CASE NUMBERS

111.10 The Clerk shall as near equally as possible assign cause numbers for new filings of all IF and OV case types to Hamilton Superior Courts No.s 4, 5, and 6 (i.e., 1/3 in each court).

111.20 The Clerk shall accomplish the above by assigning cause numbers to the courts based upon the first letter of the defendant's or respondent's last name or other method as the judges of said courts shall agree.

LR29-CR00-301. CRIMINAL RANDOM FILING

301.10 This Random Filing Rule does not apply to either civil cases or juvenile cases.

301.20 All misdemeanors (except those assigned to Superior Court No. 3 pursuant to Section 301.30 below) shall be randomly filed with 50% 1/3 in Superior Court No. 4, ~~and with 50% 1/3~~ in Superior Court No. 5, and 1/3 in Superior Court No. 6 or other method as the judges of said courts shall agree. All class D Felonies ~~involving driving offenses~~ shall be randomly filed with 50% 1/3 in Superior Court No. 4, ~~and with 50% 1/3~~ in Superior Court No. 5, and 1/3 in Superior Court No. 6 or other method as the judges of said courts shall agree. Reassignment of these cases shall be achieved by transferring cases originating in Superior Court No. 4 to either Superior Court No. 5 or Superior Court No. 6; and transferring cases originating in Superior Court No. 5 to either Superior Court No. 4 or Superior Court No. 6; and, transferring cases originating in Superior Court No. 6 to either Superior Court No. 4 or Superior Court No. 5. In the event a second subsequent reassignment is required (and neither Superior Court No. 4, nor Superior Court No. 5, nor Superior Court No. 6 is available) said case assignment shall be achieved by obtaining a new court assignment from all Hamilton County Courts using the Clerk's random assignment procedure.

301.30 Misdemeanor battery offenses and invasion of privacy offenses that do not involve operating while intoxicated (I.C. 9-30-5) offenses shall be filed in Superior Court No. 3. Reassignment of these cases will be achieved by randomly transferring said cases to either Superior Court No. 4, and Superior Court No. 5, or Superior Court No. 6, with 1/3 of such transfers going to each of these three courts respectively alternately.

301.40 All Murder (MR Case type), Class A (FA Case Type), Class B (FB Case Type), and Class C (FC Case Type), and Class D (FD Case types that do not involve driving) felonies shall be randomly filed per case type with 25% of each case type filed in Circuit Court, Superior Court No. 1, Superior Court No. 2 and Superior Court No. 3. Reassignment of these cases shall be achieved by obtaining a new court assignment using the Clerk's random assignment procedure of the Courts designated to accept this type of case.

301.50 ~~All other criminal cases shall be governed by the same rules as previously in effect.~~

301.60 The Clerk shall use a court-approved procedure which provides a tamper proof method for random assignment consistent with the foregoing paragraphs of this Criminal Rule.

301.760 From time to time, the Courts may provide orders to assist the Clerk in implementing the Criminal Random Filing procedures.

301.870 Pursuant to Indiana Criminal Rule 2.2(c), if a case is dismissed after filing, upon refileing it shall be assigned to the same court where it was originally assigned.

LR29-CR00-302. CLERK PROCEDURES TO ACCOMPLISH CRIMINAL RANDOM FILING

302.10 The Judges of the Hamilton Circuit Court and Hamilton Superior Courts ~~No. 1, No. 2, No. 3, No. 4, and No. 5~~ approve the following procedures to be used in the Hamilton County Clerk's office to accomplish the Hamilton County Criminal Random Filing Order.

- a. Begin with a set number of cases, ~~such as 24, 36, or 60~~, which is evenly divisible by the applicable number of Hamilton County Courts.
- b. Divide the set number of cases by the percentages for each type of case per Court resulting in the number of each type case for each Court which shall equal the percentages.
- c. These cases are then pulled and/or selected for individual case number assignment one by one on an impartial random selection basis.

LR29-PR00-702. FILING OF PLEADINGS

702.10 When pleadings are filed by mail or left with the Court for filing, a self-addressed, stamped envelope shall be included for return of documents to the attorney.

702.20 ~~Routine pleadings, such as Inventories, Inheritance Tax Schedules and Final Reports, may be filed with the Clerk for transmittal to the Court.~~

702.30 If petitions or motions are filed by electronic facsimile transmission, then such filing must conform with the requirements set forth in the trial rules and LR29-AR-103.

702.430 All attorneys **parties** are required to prepare orders for all proceedings except when expressly directed otherwise by the Court.

702.540 Every pleading, ~~including inventories, petitions and accountings~~ filed in an estate or guardianship will be signed and verified by the fiduciary and signed by the attorney for the fiduciary.

702.650 All pleadings filed shall contain the parties' name, address and telephone number and/or the parties' attorney's name, address, telephone number and registration number.

702.760 The initial petition to open an estate or guardianship shall contain the name, address, social security number (in compliance with Indiana Administrative Rule 9) and telephone number of the personal representative or guardian, if a person.

702.870 The Instructions to the Personal Representative or Guardian, executed by the fiduciary, must be filed with the Court at the time letters are ordered issued in the proceeding **(Forms PR00-1, PR00-2, PR00-3, PR00-4)**

702.980 The affidavit of compliance with the notice provisions directed to creditors in an estate proceeding shall be timely filed with the Clerk of the Court.

702.90 ASSIGNMENT OF MH PROBATE CASE NUMBERS:

- a.** The Clerk shall assign cause numbers for new filings of all MH case types to Hamilton Superior Court No. 1 and Hamilton Superior Court No. 3.
- b.** The Clerk shall equally assign such new filings to Superior Court No. 1 and Superior Court No. 3 or other method as the judges of said courts shall agree.

702.100 ASSIGNMENT OF ES/EU, GU, AND TR PROBATE CASE NUMBERS: As requested by the parties, or directed by the judges, the Clerk shall assign cause numbers for new filings of ES/EU, GU, and TR case types to either Hamilton Superior Court No. 1 and/or Hamilton Superior Court No. 3.

LR29-TR76-210. TRANSFER OF SMALL CLAIMS, INFRACTION AND ORDINANCE VIOLATION CASES IN THE EVENT OF DISQUALIFICATION

210.10 For the orderly administration of the small claims, infraction, and ordinance violation dockets of Superior Court No. 4, ~~and~~ Superior Court No. 5, and Superior Court No. 6, this Rule shall govern in the event that a judge of a small claims, infraction, or ordinance violation case orders a change of judge pursuant to Trial Rule 76(B) or disqualifies himself or herself pursuant to Trial Rule 79(C).

210.20 In the event that the judge of a small claims, infraction, or ordinance violation case in either Superior Court No. 4 or Superior Court No. 5, or Superior Court No. 6 orders a change of judge pursuant to Trial Rule 76(B) or disqualifies himself or herself pursuant to Trial Rule 79(C), a special judge shall ~~not~~ be selected by the Clerk by random selection of one of the two remaining courts (i.e. either Superior Court No. 4, Superior Court No. 5, or Superior Court No. 6, as applicable). Rather, the judge shall proceed as follows:

- a. ~~The judge of Superior Court No. 4 shall order the Clerk to transfer the case to Superior Court No. 5; or~~
- b. ~~The judge of Superior Court No. 5 shall order the Clerk to transfer the case to Superior Court No. 4.~~

210.30 ~~After a case has been transferred once pursuant to this General Rule, and the new judge subsequently orders a change of judge pursuant to Trial Rule 76(B) or disqualifies himself or herself pursuant to Trial Rule 79(C), then a special judge shall be selected in accordance with Trial Rule 79.~~

PROTECTIVE ORDERS: In the event the Judge of Superior Court No. 6 orders a change of judge pursuant to TR 76(B) or disqualifies himself or herself pursuant to TR 79(C) a special judge shall be selected by the Clerk by random selection of any of the remaining courts as applicable.